IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

Crl.MC.No. 180 of 2007()

ST.415/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD

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PETITIONER/ACCUSED:

ABOOBACKER T.K. S/O. ABDUL REHMAN
AGED 46 YEARS, THONIKKADAVIL HOUSE
KOLAPPULLY, SHORNUR.

BY ADV. SRI.E.R.VENKATESWARAN
SRI.R.SREEHARI

RESPONDENTS/STATE & COMPLAINANT:

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1. STATE OF KERALA REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

2. SHREERAM FINANCE PVT. LTD.
PALAKKAD REP. BY ITS BRANCH MANAGER.

R1 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 180 of 2007

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Dated this the 23rd day of January, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. The petitioner had received notice. He had entered appearance through counsel. But he had not entered appearance personally. The learned Magistrate had issued a warrant of arrest against the petitioner. He apprehends that when he surrenderes, his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions under Section 482 Cr.P.C. may be issued in favour of the petitioner.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on

merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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